

Indian Arts and Crafts Board
Oversight Hearing
Senate Indian Affairs Committee
May 17, 2000

Testimony of Senator Jeff Bingaman (NM)

Thank you Chairman Campbell for inviting me to testify today on the Indian Arts and Crafts Board (IACB). The issue of protecting Indian Arts and Crafts is a very important issue to me, and the thousands of Native Americans that make up the 22 tribes in New Mexico.

Over fifty years ago, Congress established the IACB. In 1990, Congress granted the Board broader authority to better enable it to promote the economic welfare of the tribes and individual Indians.

I believe goods labeled or sold as “Indian made” take on special significance. The Indian Arts and Crafts Act recognizes the unique character of Indian hand-made goods and seeks to protect such arts and crafts and the economic benefits arising out of these unique goods.

Growing up in New Mexico, I was surrounded by Indian arts and crafts and I have great respect for the significant talent and creativity that goes into making each item of Zuni jewelry, each Navajo rug and each Hopi kachina. I have even become familiar with the unique designs that are traditional to particular tribes in New Mexico.

In 1998, I was invited to a meeting in Gallup, New Mexico – a community that has celebrated and promoted Indian arts and crafts for over a century – to discuss the growing problem of goods being misrepresented as “Indian made”. I met with several dealers from Gallup and several artists from the Navajo, Zuni and Hopi tribes. They were all very concerned about the growing number of manufacturers and dealers that are misrepresenting the origin of the goods being produced and or the quality of the goods being sold. This concern is well founded because in and around Gallup, many members of the Navajo, Hopi and Zuni tribes earn their living by selling their handmade arts and crafts. The reputable dealers also have a vested interest in eliminating the fraudulent activities because their reputation rests solely on the consumer’s perception of their trustworthiness.

One of the recurring problems the local dealers and artists encounter is the sale of non-Indian made jewelry side-by-side with Indian handmade goods. The non-Indian made items are often mass produced and made of inferior materials. This infusion of lower quality goods into the marketplace has negatively impacted both the Indian artists and the reputable dealers because consumers have become increasingly wary of the Indian arts and crafts being sold.

Another problem is the growing number of individuals that are mass producing arts and crafts that resemble those items historically produced by artisans of the Navajo, Hopi and Zuni tribes. This misappropriation of a traditional art or design usually attributable to a particular tribe, results in buyer confusion and damages the economic advantage once available to a Zuni jeweler or a Navajo rug weaver. While some of these fake items are produced locally, many are imported from the Philippines, Mexico and other countries. The IACB should work more closely with US Customs to reduce the number of products entering the U.S. that are in violation of the IACA.

A more reprehensible problem is the mass reproduction of an item originally designed and made by a notable Indian artist. The original artist is often unaware that there are a hundred copies of his original design circulating in the marketplace. While this seems to be a clear violation of the law, there seems to be no one working to investigate these incidents or prosecute these fraudulent producers and dealers. Now that the IACB has attorneys in place working on complaints of misrepresentation, Congress should evaluate whether IACB should be granted investigative authority to further its mission.

The artists and dealers interested in protecting both their livelihood and culture need assistance in investigating and eliminating dealers and artists who are misrepresenting the origin of their goods. The consumers need greater assurance that their investment in Indian arts and crafts is a worthy investment. I believe this protection and assurance should be provided by the IACB. The IACB should be provided, and should utilize, the resources necessary to take a more active role in investigating this fraudulent activity. Without an investigation, there is little chance of a prosecution taking place under the Indian Arts and Crafts Act.

In my meetings with dealers and artists in Gallup, it was also clear that the tribes and tribal members would clearly benefit from having a tribal trademark. Such a trademark would identify an artist as a member of a particular tribe and would assure the consumer of the origin of such work. The mark would be used by tribal members with the permission of the tribe.

The IACB has the power to create a government trademark of genuineness and quality for Indian products and the ability to register these government-owned trademarks with the Patent and Trademark Office. While I applaud the IACB's efforts in this regard, and I thank the PTO for providing an attorney to assist IACB in drafting trademark regulations, I encourage the IACB to reach out to more tribal governments and individual Indians and provide more education about the benefits of obtaining such a mark. Trademark law is intended to prevent consumer confusion and to assure purchasers of a certain level of quality. The IACB should increase their efforts regarding trademarks to better protect artists and consumers.

In order to regain consumer confidence and restore the credibility to certain markets, the IACB should make their presence known and utilize the powers granted to it by Congress. We also need reasonable regulations that support the individual Indian artists without strangling the Indian arts and crafts economy.

The Indian culture and Indian arts and crafts is one of the top reasons visitors come to New Mexico. The economic impact on New Mexico is significant. But we must not forget that every economy depends on the existence of laws that protect inventors and consumers. Mr. Chairman, the livelihood of many Indian artists and New Mexico dealers depends on the implementation and enforcement of the Indian Arts and Crafts Act. Because of the current powers granted to the IACB, it is the federal agency best suited to carry out this mission, and it should proceed to do so.

I encourage this Committee to support the IACB's budget request for FY2001. In addition, I urge this Committee to authorize an increase in IACB resources, specifically devoted to the implementation and enforcement of the Indian Arts and Crafts Act.

Mr. Chairman, thank you again and I look forward to working with you and your staff on this issue in the future.